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NbfWgarP
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      UNITED STATES DISTRICT COURT
      SOUTHERN DISTRICT OF NEW YORK
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     UNITED STATES OF AMERICA,
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                                              23 Cr. 597 (LAK)
                 v.
5
      JOSEPH GARRISON,
 6
                     Defendant.
                                              Plea
7
          -----x
 8
                                              New York, N.Y.
                                              November 15, 2023
 9
                                              10:15 a.m.
10
     Before:
11
                        HON. ROBERT W. LEHRBURGER,
12
                                              U.S. Magistrate Judge
13
                                APPEARANCES
14
      DAMIAN WILLIAMS
15
           United States Attorney for the
           Southern District of New York
16
     BY: KEVIN B. MEAD
          Assistant United States Attorney
17
      DAVID E. PATTON
          Federal Defenders of New York, Inc.
18
          Attorney for Defendant
19
     BY: CLAY H. KAMINSKY
          Assistant Federal Defender
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(Case called) 1 2 MR. MEAD: Good morning, your Honor. AUSA Kevin Mead appearing for the government. 3 4 THE COURT: Good morning. 5 MR. KAMINSKY: Good morning, your Honor. Clay 6 Kaminsky of the Federal Defenders for Mr. Garrison. 7 His mother is also in the gallery today. THE COURT: Good morning. 8 9 Thank you for being here. 10 I understand that we are here to take a plea. How do 11 you intend to plead today? 12 (Discussion off the record) 13 THE COURT: OK. 14 Everyone needs to speak up so the court reporter can 15 hear. MR. KAMINSKY: Your Honor, is it OK if Mr. Garrison 16 17 remains seated so that he can speak right into the microphone? 18 THE COURT: Of course. Absolutely. There's no need 19 stand. 20 All right. Let me begin again. 21 Mr. Garrison, I understand you're here today because 22 you wish to enter a plea to Count One of the information that 23 has been lodged against you. How do you intend to plead today? 24

THE DEFENDANT: Guilty, your Honor.

THE COURT: To take your plea, I'm going to need to ask you a number of questions, and that means I'm going to swear you in. I remind you since you'll be under oath you could be prosecuted for perjury for giving false information.

Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Please raise your right hand.

Do you swear that the answers and testimony you give today will be the truth, the whole truth and nothing but the truth?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right. Put down your hand. Thank you.

We're going to start with a few procedural matters before we get to the substance of the plea. I have before me a form that's called a consent to proceed before a United States magistrate judge on a felony plea allocution that appears to have your signature where required.

Did you sign the form?

THE DEFENDANT: Yes.

THE COURT: All right. The form says that you know you have the right to have your plea taken by a United States district judge, but you are agreeing to have the plea taken by a United States magistrate judge, such as myself. As a magistrate judge, I have the authority to take your plea, with

your consent, and you'll still be entitled to all of the protections and rights as if you were before a district judge. Among other things, the district judge will be the one to sentence you.

Before you signed the form, did your lawyer explain it to you?

THE DEFENDANT: Yes, your Honor.

THE COURT: And did you sign it voluntarily?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you, in fact, wish to proceed with your plea before a United States magistrate judge?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right. Your consent is accepted.

I'll sign off on that.

The document to which you intend to enter a plea is an information that was issued by the United States Attorney.

Under the Constitution, though, you have the right to be charged by an indictment, which is issued by a grand jury, instead of by an information, like this one. If you give up your right to have the charges against you presented to the grand jury, then the case will proceed against you based on the United States Attorney's information just as if you had been indicted.

Do you understand?

THE DEFENDANT: Yes, your Honor.

1	THE COURT: I have a copy in front of me of a form
2	titled waiver of indictment. It appears to have your
3	signature. Did you sign it?
4	THE DEFENDANT: Yes, your Honor.
5	THE COURT: Did you do so voluntarily?
6	THE DEFENDANT: Yes, your Honor.
7	THE COURT: Did you review it with your attorney
8	before you signed it?
9	THE DEFENDANT: Yes, your Honor.
10	THE COURT: Do you understand that by signing the form
11	you are giving up your right to have your case presented to a
12	grand jury and that you are agreeing to permit the charges to
13	be filed the United States Attorney instead?
14	THE DEFENDANT: I do, your Honor.
15	THE COURT: Have you discussed with your attorney the
16	advantages and disadvantages of waiving indictment?
17	THE DEFENDANT: Yes, your Honor.
18	THE COURT: Have any threats or promises been made to
19	you to get you to waive indictment?
20	THE DEFENDANT: No, your Honor.
21	THE COURT: Do you, in fact, wish to give up your
22	right to be charged by a grand jury?
23	THE DEFENDANT: Yes, your Honor.
24	THE COURT: All right. The waiver is accepted.
25	Again, in order to take your plea, I'm going to ask

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you a number of questions. The first set of questions are
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      directed towards your competency to enter a knowing and
      intelligent plea, so listen to my questions carefully. If you
 3
      don't understand or don't hear, please let me or your attorney
 4
      know, and we will address it. OK?
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               THE DEFENDANT: Yes, your Honor.
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               THE COURT: All right. Thank you.
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               What is your full name?
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               THE DEFENDANT: Joseph Hamilton Garrison.
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               THE COURT: How old are you?
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               THE DEFENDANT:
                               19.
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               THE COURT: Can you read and write in English?
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               THE DEFENDANT: Yes, your Honor.
14
               THE COURT: How far did you go in school?
               THE DEFENDANT:
15
                               I graduated high school. I'm
16
      currently in college.
17
               THE COURT: Are you currently or have you recently
18
     been under the care of a psychiatrist, psychologist or other
19
     mental healthcare professional?
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               THE DEFENDANT: Yes, your Honor.
21
               THE COURT: Are you taking any medicines or
22
     prescription drugs in connection with your treatment?
23
               THE DEFENDANT: No, your Honor.
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               THE COURT: Have you ever been hospitalized for mental
25
      illness, alcoholism or drug addiction?
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1	THE DEFENDANT: No, your Honor.
2	THE COURT: Do you have any condition that affects
3	your ability to see or to hear?
4	THE DEFENDANT: No, your Honor.
5	THE COURT: Do you have any condition that affects
6	your ability to think or to understand or to make judgments or
7	decisions on your own behalf?
8	THE DEFENDANT: No, your Honor.
9	THE COURT: As you sit here today, are you under the
10	influence of any mind-altering drug or alcohol?
11	THE DEFENDANT: No, your Honor.
12	THE COURT: Do you feel OK today?
13	THE DEFENDANT: Yes.
14	THE COURT: Is your mind clear today?
15	THE DEFENDANT: Yes.
16	THE COURT: Do you understand what's happening during
17	this proceeding?
18	THE DEFENDANT: Yes, your Honor.
19	THE COURT: Have you seen a copy of the information
20	that contains the charges against you?
21	THE DEFENDANT: Yes, your Honor.
22	THE COURT: Have you read it?
23	THE DEFENDANT: Yes, your Honor.
24	THE COURT: Do you understand what it says you did?
25	THE DEFENDANT: I do, your Honor.

1 THE COURT: Have you had enough time to speak with 2 your attorney about your case and how you wish to plead? 3 THE DEFENDANT: Yes, your Honor. 4 THE COURT: Has your attorney explained to you the 5 consequences of pleading quilty? 6 THE DEFENDANT: Yes, your Honor. 7 THE COURT: Are you satisfied with your attorney's representation of you? 8 9 THE DEFENDANT: Yes, your Honor. 10 THE COURT: All right. 11 Does either counsel have any objections to or concerns 12 about the defendant's competence to plead at this time? 13 MR. MEAD: No, your Honor. 14 MR. KAMINSKY: No, your Honor. 15 THE COURT: Now I am going to address with you certain constitutional rights that you have. These are rights that you 16 17 will be giving up if you enter a plea of guilty. Again, please listen carefully and if you don't hear or understand, please 18 19 speak up or let your attorney know. 20 Under the Constitution and the laws of the United 21 States, you have the right to plead not guilty to the charges 22 contained in the information. 23 Do you understand that? 24 THE DEFENDANT: Yes, your Honor. 25 THE COURT: And if you plead not guilty, you would be

entitled, under the Constitution, to a speedy and public trial by a jury of those charges. At that trial, you would be presumed innocent, and the government would be required to prove you were guilty beyond a reasonable doubt before you could be found guilty. And you could not be convicted unless a jury of 12 people agreed unanimously that you were guilty beyond a reasonable doubt.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: If you decided to go to trial, at that trial and at every stage of your case, you would have the right to be represented by an attorney, and if you could not afford one, an attorney would be appointed to represent you at the government's expense. Even if you retained private counsel, if you ran out of money, then an attorney would be appointed to continue to represent you. You would be entitled to an attorney all the way through trial and not just for a guilty plea, so your decision to plead guilty should not depend on whether you can afford to hire an attorney.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: During a trial, the witnesses for the prosecution would have to come to court and testify in your presence, where you could see and hear them, and your lawyer could cross-examine those witnesses. And if you wanted, your

lawyer could offer evidence on your behalf. You would be able to use the court's power to compel witnesses to come to court and testify in your defense even if they did not want to come.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: At a trial, you would have the right to testify in your own defense if you wanted to, but you would also have the right not to testify, and if you chose not to testify, that could not be used against you in any way. No inference or suggestion of guilt would be permitted from the fact that you did not testify.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: If you were convicted at trial, you would have the right to appeal that verdict to a higher court.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: As I said before, you have the right to plead not guilty. Even now, you have the right to plead or continue to plead not guilty and go to trial. But if you do plead guilty and if the Court accepts your plea, you will give up the rights that I have described. If you plead guilty, there will be no trial. All that will remain to be done will be to impose a sentence. You and the government will have a chance to make arguments about what sentence you should get,

but there will not be any further trial to determine whether you are guilty or not guilty of the charges to which you have pled guilty.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: Finally, if you do plead guilty, you are also giving up the right not to incriminate yourself, and I will ask you questions about what you did in order to satisfy myself that you were actually guilty. By pleading guilty, you would be admitting both your factual and legal guilt.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now I'm going to review with you the charges against you and the consequences of pleading guilty to them.

Count One of the information charges you with conspiring to commit computer intrusion, in violation of Title 18, United States Code, Section 371.

Your plea agreement, which we will get to shortly, contemplates that you will plead guilty to that charge, but in the meantime, I'm going to ask the assistant United States attorney to state the elements of Count One. The elements are the things the government would have to prove beyond a reasonable doubt if you went to trial.

MR. MEAD: The defendant is pleading guilty to one

count of conspiring to commit computer intrusion, in violation of Title 18, United States Code, Sections 371 and 1030. In order to prove the defendant's guilt, the government would have to prove the following elements beyond a reasonable doubt:

One, that a conspiracy to commit computer intrusion existed;

Two, that the defendant willfully joined the conspiracy, knowing its unlawful objective; and

Three, that one of the conspirators has taken an overt act in furtherance of the conspiracy.

In this case, the government has charged a conspiracy to commit computer intrusion in two separate ways. The first type of computer intrusion and was an object of the conspiracy was to access without authorization and obtain information, and it has the following elements:

First, without authorization, a computer was accessed by a conspirator;

Second, the conspirator acted intentionally;

Third, the conspirator obtained information from a protected computer;

Fourth, the conspirator acted for the purpose of private financial gain or the value of the information obtained was greater than \$5,000.

The second type of computer intrusion that was an object of the conspiracy to further an intended fraud has the

following elements:

First, that a conspirator knowingly accessed a protected computer without authorization;

Second, that a conspirator acted with the intent to defraud; and

Third, that in furtherance of the scheme to defraud, a conspirator obtained something of value.

THE COURT: Thank you.

Mr. Garrison, how do you intend to plead to Count One?
THE DEFENDANT: Guilty, your Honor.

THE COURT: With respect to the offense to which you are pleading, I want you to understand the maximum possible penalties that the court can impose. The maximum means the most that could possibly be imposed. It does not mean that is what you necessarily would receive. But by pleading guilty, you are exposing yourself to the possibility of receiving any combination of punishments up to the maximum I am about to describe.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: The maximum term of imprisonment for pleading guilty to Count One is five years of imprisonment. In addition, there's a maximum term of supervised release of three years.

Supervised release means that after you are released

from prison, you may be subject to supervision by the probation department. If you are placed on supervised release and thereafter violate any condition of that supervised release, the district judge can revoke the term of supervised release previously imposed and return you to prison without giving you any credit for time previously served on postrelease supervision.

Do you understand the punishments so far?

THE DEFENDANT: Yes, your Honor.

THE COURT: In addition to these restrictions on your liberty, the maximum possible punishment also includes financial penalties.

First, it includes a maximum fine of the greatest of \$250,000, or twice the gross pecuniary gain derived from the offense or twice the gross pecuniary loss to persons other than you resulting from the offense.

In addition, there's a \$100 mandatory special assessment.

Further, you will be admitting to the forfeiture allegation of the information, and you will be required to forfeit a sum of money equal to \$175,019.11, representing proceeds traceable to the commission of the offense. And you are consenting and will be signing the forfeiture order that I have before me.

You also are agreeing to make restitution in the

amount of \$1,327,061.

I just want to make sure that I have that number correctly. There's a comma at the end with no cents. I just want to make sure it's a whole dollar value. Is that correct?

MR. MEAD: That's correct, your Honor.

THE COURT: OK.

All right. And the restitution amount will be paid according to a plan established by the court.

Do you understand your financial penalties?

THE DEFENDANT: Yes, your Honor.

THE COURT: Additionally, if you are a naturalized citizen of the United States, then your guilty plea may also have adverse consequences for your immigration status, such that you could be subject to denaturalization and removal. If you are not a citizen of the United States, then your guilty plea may also have adverse consequences for your ability to remain in or return to the United States, including removal, deportation, denial of citizenship and denial of admission to the United States in the future. If that does happen, you will still be bound by your guilty plea; that is, you will not be able to withdraw it regardless of any advice you have received from your counsel or others regarding the immigration consequences of your plea.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

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               THE COURT: Do you understand the charges against you
 2
      and the consequences of pleading guilty to them?
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               THE DEFENDANT: I do, your Honor.
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               THE COURT: As I mentioned earlier, there is a written
 5
     plea agreement in the form of a letter, and it is dated
     November 6, 2023.
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               Did you sign the plea agreement?
               THE DEFENDANT: Yes, your Honor.
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               THE COURT: Did you read it before you signed it?
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               THE DEFENDANT: Yes, your Honor.
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               THE COURT: Did you discuss it with your attorney
12
     before you signed it?
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               THE DEFENDANT: Yes, your Honor.
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               THE COURT: Did your attorney explain to you all of
15
      its terms and conditions?
               THE DEFENDANT: Yes, your Honor.
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17
               THE COURT: Do you understand all of its terms and
      conditions?
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19
               THE DEFENDANT: Yes, your Honor.
20
               THE COURT: The letter says that you, or the agreement
21
      says that you and the government have reached agreement
22
      regarding the appropriate calculation of your sentence under a
23
     part of our law known as the sentencing guidelines and that the
24
      appropriate guidelines sentencing range is from 24 to 30
25
     months.
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1 Do you understand that? 2 THE DEFENDANT: Yes, your Honor. 3 THE COURT: Under the agreement, neither you nor the 4 government is allowed to argue to the sentencing judge for a 5 calculation that is different than the one in the agreement. 6 However, the sentencing judge is not bound by the calculation 7 in the agreement, and he or she will be free to do their own calculation, which may result in a sentencing range that 8 9 differs from the one in the letter. 10 Do you understand that? 11 THE DEFENDANT: Yes, your Honor. 12 THE COURT: The sentencing range is just one of many 13 factors the judge will consider in determining your sentence. 14 The judge has discretion to give you a sentence below or above 15 the range, anywhere up to the maximum I told you about earlier. 16 Do you understand that? 17 THE DEFENDANT: Yes, your Honor. 18 THE COURT: So as long as the sentencing judge 19 sentences you to a prison term of no longer than 30 months, you 20 are giving up your right to challenge your sentence, whether by 21 direct appeal, writ of habeas corpus or otherwise. 22 Do you understand? 23 THE DEFENDANT: Yes, your Honor. 24 THE COURT: Additionally, by pleading quilty, you also

will not be able to appeal any fine with a value of up to

\$95,000 or less, any lawful sentence of supervised release, any restitution, as set forth in the agreement, and any forfeiture as set forth in the agreement.

Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Further, under the terms of the plea agreement, even if you later learned that the government withheld from your attorney certain information that would have been helpful to you in defending yourself at trial, you will not be able to complain about that or withdraw your guilty plea on that basis.

Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Counsel, are there any other provisions of the plea agreement you wish for me to review with the defendant?

Government.

MR. MEAD: No, your Honor.

MR. KAMINSKY: No, your Honor.

THE COURT: Mr. Garrison, apart from what is contained in the plea agreement, have any promises been made to you in order to get you to plead guilty?

THE DEFENDANT: No, your Honor.

THE COURT: Has anyone threatened, forced or coerced you in any way, either directly or indirectly, to get you to

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1 plead quilty? 2 THE DEFENDANT: No, your Honor. THE COURT: Now that you have been advised of the 3 4 charges against you, the possible penalties you face and the 5 rights you are giving up, is it still your intention to plead 6 quilty to Count One of the information? 7 THE DEFENDANT: Yes, your Honor. 8 THE COURT: Is your plea voluntary and made of your own free will? 9 10 THE DEFENDANT: Yes, your Honor. 11 THE COURT: Mr. Garrison, with respect to Count One of 12 the information, how do you plead; guilty or not guilty? 13 THE DEFENDANT: Guilty, your Honor. 14 THE COURT: Please tell me in your own words what you 15 did that makes you guilty of the crime charged in the information. 16 17 MR. KAMINSKY: Just one moment, your Honor? 18 (Counsel conferred with defendant) 19 MR. KAMINSKY: We're ready, your Honor. 20 THE COURT: All right. 21 Mr. Garrison, if you'd like to proceed. 22 THE DEFENDANT: In or around November 2022, I agreed 23 with other people to access internet-protected computers 24 without authorization and for the purpose of financial gain.

Specifically, we used leaked credentials to access

users' betting accounts on a sports betting website in order to take money that did not belong to us.

I am sorry.

THE COURT: And did you know what you were doing was wrongful and against the law when you were doing it?

THE DEFENDANT: Yes, your Honor.

THE COURT: And where were you when you participated in this? In terms of geography, where were you located?

THE DEFENDANT: Madison, Wisconsin, at my house.

THE COURT: OK.

Let me ask counsel. What is the connection to New York venue?

MR. MEAD: As to venue, the government's evidence would establish, one, that many of the users whose accounts were hacked located in the Southern District of New York, and two, that an undercover officer purchased access to one of the accounts from the coconspirators while he was located in the Southern District of New York.

THE COURT: All right. Are there any additional questions you would like me to ask the defendant?

MR. MEAD: No, your Honor, although we would like to make a proffer of evidence at some point.

THE COURT: Yes.

Do you believe there is a sufficient factual predicate for a guilty plea?

MR. MEAD: Yes, your Honor.

THE COURT: And does the government represent that it has sufficient evidence to establish guilt beyond a reasonable doubt at trial?

MR. MEAD: We do, your Honor.

THE COURT: All right. You may proceed with your proffer.

MR. MEAD: The government would prove that the defendant was a member of a conspiracy to hack a fantasy sports and betting website in November of 2022 to obtain access to user accounts and to then steal the money in those accounts. The defendant and others executed the hack on the website and then provided access to the stolen accounts to coconspirators, who then sold access to those accounts online. The conspirators stole approximately \$600,000 from accounts in the fraud, and the computers that they accessed without authorization were used in or affecting interstate or foreign commerce.

The government's evidence at trial would include, but not be limited to, records from the fantasy sports and betting website establishing the hack; the defendant's own statements about the hack; files involved in the hack found on the defendant's computer; and the defendant's messages with coconspirators about committing the hack.

THE COURT: All right.

Defense counsel, are there any additional questions 1 2 you would like me to ask the defendant? 3 Thank you, your Honor. MR. KAMINSKY: No. 4 THE COURT: Do you believe there is a sufficient 5 factual predicate for a quilty plea? 6 MR. KAMINSKY: I do. 7 THE COURT: Mr. Garrison, on the basis of your responses to my questions and my observations of your demeanor, 8 9 I find that you are competent to enter an informed quilty plea 10 and that there is a factual basis for it. I'm satisfied that 11 you understand your rights; that you are aware of the 12 consequences of your plea, including the sentence that may be 13 imposed; that you are voluntarily pleading quilty and that you 14 have admitted that you are guilty as charged in Count One of 15 the information. For these reasons, I am accepting your plea and 16 17 recommending that the district judge do the same. 18 Mr. Mead, will the government order a copy of the 19 transcript and submit it together with any additional paperwork 20 so the district judge can act on my recommendation? 21 MR. MEAD: We will, your Honor. 22 THE COURT: And has the district judge set a 23 sentencing date? 24 MR. MEAD: He has not yet, your Honor. 25 All right. We'll set a control date for THE COURT:

24

25

matter?

Mr. Mead.

January 16, 2024, at 10 a.m. 1 2 I direct that the presentence report be prepared. 3 Mr. Mead, will you deliver the case summary for 4 purposes of the presentence report to the probation department 5 within 14 days? I will, your Honor. 6 MR. MEAD: 7 THE COURT: Mr. Kaminsky, will you be available to be interviewed with your client by the probation department within 8 9 14 days? 10 MR. KAMINSKY: Yes, your Honor. 11 THE COURT: Mr. Mead, what are we doing with respect 12 to detention or release until sentencing? 13 MR. MEAD: Continuing the current bail conditions, 14 your Honor. 15 THE COURT: I assume that's acceptable to the defense. 16 MR. KAMINSKY: Yes, it is. 17 THE COURT: Mr. Garrison, all of the conditions on 18 which you were released up to now continue to apply. A violation of those conditions can have serious consequences, 19 20 including revocation of bail and prosecution for bail-jumping. 21 Do you understand? 22 THE DEFENDANT: Yes, your Honor. 23 THE COURT: All right. Anything further on this

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               MR. MEAD: No, your Honor.
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               THE COURT: Mr. Kaminsky.
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               MR. KAMINSKY: No, your Honor. Thank you.
               THE COURT: All right. Mr. Garrison, I wish you good
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      luck.
               We are adjourned.
 6
7
               (Adjourned)
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